COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

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D.T.E. 98-100; Investigation by the)

Department of Telecommunications)

and Energy on its Motion to Establish)

Methods and Procedures to Evaluate and) D.T.E. 98-100

Approve Energy Efficiency Programs)

Pursuant to G.L. c. 25, § 19 and)

c. 25A, § 11G)

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COMMENTS OF THE NORTHEAST ENERGY EFFICIENCY COUNCIL

CONCERNING THE DEPARTMENT'S

ORDER PROMULGATING PROPOSED GUIDELINES TO EVALUATE AND APPROVE ENERGY EFFICIENCY PROGRAMS

The Northeast Energy Efficiency Council (Efficiency Council) appreciates the opportunity to submit comments on the Department's November 3, 1999 <u>Order Promulgating Proposed Guidelines to Evaluate and Approve Energy Efficiency Programs</u>. The Efficiency Council applauds a number of aspects of the Order and Guidelines. Among these are: the adoption of a uniform electric generation factor; the inclusion of many of the benefits recommended by the Joint Commenters; the use of a societal discount rate for cost-effectiveness analysis; adoption of protocols for joint cost-effectiveness and evaluation where appropriate; a disciplined yet balanced approach to the treatment of long term market effects together with production of direct savings in establishing shareholder incentive performance measurement and program evaluation guidelines; adoption of the tiered shareholder incentive structure; and the coordinative process with DOER.

There are also some aspects of the Order that the Department should reconsider and modify. The two most troubling aspects of the Department's Order are the exclusion of societal environmental and economic benefits, and of a consensus standard low income benefits adder. In these comments, we first briefly discuss those two issues, and then comment on additional modifications that the Efficiency Council believes would strengthen and clarify the Department's Guidelines in important ways.

1. **Societal Perspective: Recognition of Environmental and Economic Benefits**

   The Department's proposed Guidelines do not permit the inclusion of societal environmental and economic benefits for purposes of program benefit/cost analysis, as recommended by the Joint Commenters, the Division of Energy Resources, and the Department of Environmental Protection, which represent a breadth of consensus rare in any regulatory proceeding.

   The Electric Restructuring Act of 1997 recognizes the underlying public purpose economic and environmental benefits of energy efficiency. The Department itself recognizes the changed paradigm in its Order, such as its adoption of a societal discount rate. The Department's reasoning with regard to societal environmental and economic benefits is inconsistent with this, and its cited reasons are flawed. The Department cites a Supreme Judicial Court decision and Department precedent to justify its determination. However, its analysis does not address what has changed in the interim: namely passage of the Electric Restructuring Act of 1997. The Department's adoption of a societal perspective would no longer affect ratepayer costs, which have been fixed by the Legislature, as it might have prior to the legislation. Nor would recognition of these benefits impose new environmental standards or regulation outside the scope of the Department's authority. It merely recognizes a more complete and appropriate set of costs and benefits associated with the implementation of energy efficiency programs pursuant to the Legislature's direction. The Department does explicitly cite and support the legislatively recognized need for "coordination, consultation and advice" between economic and environmental regulators. Yet its decision is contrary to the advice of the DEP. The Department's decision is not deference to environmental regulators, but repudiation of their advice and counsel.

   The Efficiency Council urges the Department to reconsider its determination not to allow the inclusion of reasonably documented societal environmental and economic benefits.

2. **Low Income Benefits Adder**

   Equally troubling is the Department's decision not to permit the use of a standard adder for certain low income benefits. The proposed adder was the product of complete consensus.

The Department appears to recognize the legitimacy of many of these types of benefits, but expresses concern about the variability of their value, noting that "benefits specific to low-income participants may be more substantial than the proposed adder would recognize." The Efficiency Council agrees with this, but not with the Department's conclusion. The analysis submitted by the Joint Commenters may be the most complete such survey and analysis ever compiled. It shows clearly that these benefits, while variable from place to place, and subject to estimation error, are very real and consistently positive. The consensus adder recommendation was made with several additional factors in mind. First, that many of the elements of benefit/cost analysis are subject to estimation and even greater uncertainty, not the least of which are price forecasts for supply. Second, that the costs of redocumenting these low income benefits on an individual case by case basis would be an expensive and unnecessary use of resources. And third, that recommending a reasonably conservative intermediate value was an appropriate response to the uncertainties that do exist.

We recommend that the Department accept the proposed adder, with provisions for its review or modification if appropriate in light of new information.

3. **Documentation of Benefits**

The Department's Order and proposed Guidelines are ambiguous as to the degree to which the documentation of program participant benefits and energy system benefits that are not avoided supply, transmission, and distribution (such as certain low-income benefits) must be based on research specific to the particular utility and the particular participants. Our simple recommendation is that the Department clarify that, where territory or program specific data is not directly available, that other analogous existing research data and analyses may be used to reasonably document that such benefits are known and quantifiable.

4. **Shareholder Incentives in Benefit/Cost Test**

The Department's proposed Guidelines require the inclusion of shareholder incentives as an Energy System Cost for purposes of establishing program cost-effectiveness. We recommend that shareholder incentives be included only at the program portfolio level, to ensure that the total portfolio is cost-effective, rather than at the individual program level. Incentives are best viewed as a product of the utility's overall performance, even though they may be earned through a series of discrete measurements. Not all incentives will necessarily based in individual programs, but may be a product of an index of overall savings or cost-effectiveness performance, for example. Allocating these to individual programs would be an artifice. Second, certain start-up and developmental programs may project low or uncertain initial benefit/cost ratios, yet warrant a proportionally strong incentive to stimulate an aggressive effort at optimizing results. Conversely, highly cost-effective programs in which there is a high probability of incentive success may warrant a proportionally more modest incentive. The risk is that including incentives as a benefit/cost factor at the program level may result in perverse incentive allocations.

5. **Include all Program Costs in Incentive Base**

   The Department’s definition of the "direct program implementation costs" to be included as part of the base for calculation of maximum shareholder incentives is too restrictive. Program development, marketing, administration, market research and evaluation costs are necessary and legitimate aspects of delivering an optimally successful set of energy efficiency programs. The appropriateness of a utility’s level of such costs should be evaluated on the merits in light of the particulars of the utility program plan.

6. **Ensuring Program Continuity**

As a result of the closeness of the issuance of the Department’s proposed guidelines to the planned dates for filing program plans for 2000 and beyond, such plans may not be filed and approved in time for January 1, 2000. As a process issue, the Efficiency Council recommends that the Department provide clear communication to allow and require that established and planned programs continue without disruption pending the finalization of the Department’s Guidelines, and the revision, submission, and approval of plans for the period 2000-2002. The DOER’s and DTE’s review and approval of such plans should be on a forward looking basis only.